

UNITED STATES DISTRICT COURT

Southern

District of

New York

BERKSHIRE PARTNERS LLC

SUMMONS IN A CIVIL ACTION

V.  
BALL CORPORATION

CASE NUMBER:

**08 CV 00556**

TO: (Name and address of Defendant)

Ball Corporation  
10 Longs Peak Drive  
Broomfield, Colorado 80021

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Jerome C. Katz  
Ropes & Gray LLP  
1211 Avenue of the Americas  
New York, New York 10036

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

1/23/2008

CLERK

DATE

(By)  DEPUTY CLERK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BERKSHIRE PARTNERS, LLC,

Plaintiff,

-against

BALL CORPORATION

Defendant.

08 Civ. 00556 (GEL)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
 : ss.:  
COUNTY OF NEW YORK )

PAUL G. LANG, being duly sworn, deposes and says:

1. I am not a party to this action, am over 18 years of age and reside at 2 Dialstone Lane, Riverside, CT.

2. On January 23, 2008, I served the within Summons in a Civil Action, and the complaint in the action upon:

Ball Corporation  
10 Longs Peak Drive  
Broomfield, Colorado 80021  
Attention: Charles E. Baker

Skadden, Arps, Slate, Meager & Flom LLP  
333 West Wacker Drive  
Chicago, IL 60606  
Attention: Charles W. Mulaney, Jr.

by mailing true copies thereof, enclosed in properly addressed postage paid sealed wrappers, by certified mail return receipt requested, pursuant to the agreement contained in a certain Agreement and Plan of Merger, dated as of February 14, 2006.

2. The circumstances of the service are as follows: I delivered said wrappers with the requisite postage and the return receipt cards affixed to a Postal Clerk at a United States Post Office under the care and custody of the United States Postal Service within the State of New York and obtained Receipts for Certified Mail Receipt Nos. 7160 3901 9845 2934 9905 and Receipt No. 7160 3901 9845 2934 9929. Copies of the Certified Mail Receipts and copies of the

United States Postal Service's Track and Confirm web pages showing that deliveries where made are attached and made a part of this affidavit.

  
\_\_\_\_\_  
Paul G. Lang

Sworn to before me  
January 30, 2008



\_\_\_\_\_  
Notary Public

**CHARLES R. BRUSTMAN**  
**Notary Public, State of New York**  
**No. 01BR4799113**  
**Qualified in Nassau County**  
**Commission Expires June 21, 2011**

7160 3901 9845 2934 9929

TO: SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM LLP  
333 WEST WALKER DRIVE  
CHICAGO, ILLINOIS 60606  
ATTN: CHARLES W. MULANEY, JR.  
SENDER: POPES & GARY / JEROME KATZ  
REFERENCE:

PS Form 3800, January 2005

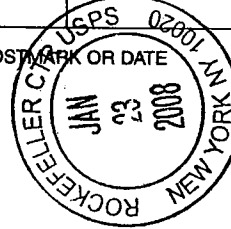
RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service

### Receipt for Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE



7160 3901 9845 2934 9905

TO: BAIL CORPORATION  
10 LONGS PEAK DRIVE  
BROOMFIELD, COLORADO  
ATTN: CHARLES E. BAKER 80021  
SENDER: POPES & GARY / JEROME  
KATZ  
REFERENCE:

PS Form 3800, January 2005

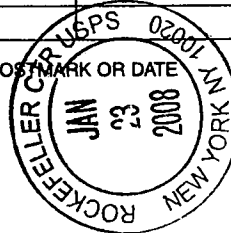
RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service

### Receipt for Certified Mail

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE



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